

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, ex rel.	)	
State Engineer,	)	No. 69 CV 07941 MV/KK
	)	
Plaintiff,	)	Rio Chama Adjudication
	)	
v.	)	Pueblo Claims Subproceeding 1
	)	
ROMAN ARAGON, et al.,	)	
	)	
Defendants.	)	
	)	

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**JOINT STATUS REPORT**

Pursuant to this Court's Order of July 16, 2020 (Document 11584), the undersigned Parties submit this Joint Status Report. The Parties are discussing possible resolution of all Ohkay Owingeh's water rights claims to all sources of water. As a result, this Joint Status Report is being filed simultaneously in the companion case styled *State of New Mexico ex rel. State Engineer v. Abbott*, No. 68-cv-07488 (MV/JHR).

1. Settlement Negotiations

Since the last status report, the Parties have held numerous meetings to continue settlement discussions, all of which have been telephonic due to the COVID-19 pandemic. Substantial progress continues to be made toward a resolution of the Pueblo's water rights claims. Since the last status report, the Parties have retained the services of two neutral third-party mediators to help the Parties reach a settlement agreement. The mediators were hired in August 2020. Their focus during the first several months has been on getting up to speed on the settlement negotiations. The Parties have frequently met both individually with the mediators and as a larger group to discuss their interests in and goals for the settlement. There have also

been discussions about how to structure the mediation and how to prioritize settlement issues. Ohkay Owingeh, at the request of the other Parties, prepared a condensed version of its settlement proposal to help facilitate and re-focus discussions on “big-picture” concepts for negotiation. The Parties have had mediated discussions of shortage sharing and supply enhancement. Additionally, in the course of the negotiations the Parties have identified and submitted to the settlement Technical Committee several technical questions, the answers to which will assist the Parties in evaluating each other’s settlement positions.

The settlement Parties met telephonically on the following dates:

June 11, 2020

June 25, 2020

July 16, 2020

July 30, 2020

October 21, 2020

October 30, 2020

November 12, 2020

December 3, 2020

The last four of these sessions were mediated by the mediators. In addition, Ohkay Owingeh has had frequent ongoing discussions by telephone with the Federal Negotiation Team, the settlement Parties or smaller groups of Parties on issues of mutual concern, as well as with the mediators. Counsel for Ohkay Owingeh have also met frequently with the Pueblo’s leadership, staff, and consultants to discuss the development of settlement proposals and the Pueblo’s priorities in settlement.

2. Scheduling of Dispositive Motions

The undersigned Parties continue to believe that the resumption of litigation would hamper their efforts to resolve Ohkay Owingeh's water rights claims through negotiation. The undersigned Parties continue to be committed to the negotiation process. Therefore, they do not anticipate the need for this Court to schedule the filing and briefing of dispositive motions within the next six months.

3. Rescheduling the Trial

For the same reasons, the undersigned Parties do not believe that the trial should be scheduled at this time.

4. Expectations on Timing of Settlement

The Parties expect the pace of the settlement to pick up over the next six months with the mediators' involvement. The Parties expect the groundwater model to be completed in January 2021, which will assist the Parties in assessing settlement proposals and water rights administration issues. The Parties also expect the Technical Committee's evaluation of technical questions identified by the Parties will expedite the progress toward a settlement. The Parties expect the settlement negotiations to extend through 2021.

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5. Other Matters

The undersigned Parties suggest that the Court require the filing of a joint status report six months from now, on June 10, 2021, at which time they will report to the Court on their progress and on the question of whether dispositive motions should be scheduled, or litigation should otherwise resume. All Parties, except the City of Española, join in this Joint Status Report. The City of Española has informed the Parties that it takes no position on this Joint Status Report.

Dated: December 10, 2020

Respectfully submitted,

*/s/ Curtis G. Berkey*

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*/s/ Bradley Bridgewater*

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/s/ *Mary E. Humphrey*

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**Attorneys for City of Española**

*declined to sign*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 10<sup>th</sup> day of December, 2020, I filed the foregoing electronically through the CM/ECF system, which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

*/s/ Curtis G. Berkey*

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Curtis G. Berkey